

Press Release

A WHITER SHADE OF PALE: HOUSE OF LORDS LEAVE OPEN KEY ISSUE

The House of Lords today gave its judgment on the appeal brought by Matthew Fisher against the decision of the Court of Appeal, which denied him the right to any income from the exploitation of the musical copyright in the 1967 hit song, “A Whiter Shade of Pale”.

Mr Fisher, the former organ player for Procol Harum, brought his claim in 2005 against Gary Brooker and Onward Music Limited, asserting that he was joint composer and entitled to a share of the musical copyright in the recording of the song. The music and lyrics of the original version of the song were written by Gary Brooker and Keith Reid and then recorded by the band Procol Harum in May 1967. The recording was subsequently released by Essex Music Limited, the predecessor to Onward.

In finding against Mr Fisher, the Court of Appeal concluded that the former band member should not be entitled to interfere with or receive any income from the future exploitation of the musical copyright in the 1967 hit, and that he was guilty of “excessive and inexcusable delay” in bringing his claim 40 years after the event.

The House of Lords ruled that Matthew Fisher could participate in future income from cover recordings of the song, but it left open the key issue of whether or not he is entitled to participate in the royalties arising from the original recording of the 1967 hit.

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The Lords ruled that the terms of the recording contract in place at the time may well have the effect of depriving Mr Fisher from collecting royalties on the original recording of the song. However, they expressly refused to make a definitive finding on the point.

The judgment from the House of Lords leaves both parties no clearer as to where they stand as to who can benefit in the future from royalties arising from the original recording of “A Whiter Shade of Pale”.

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